

Chapter 3.20

DOCUMENTARY TRANSFER TAX

(1369-12/67, 1925-8/74, Urgency Ordinance 1993-6/75, 3751-11/06)

Sections:

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3.20.010 Title. This chapter shall be known as the "Documentary Transfer Tax Chapter" of the city of Huntington Beach. It is adopted pursuant to the authority contained in Part 6.7 (commencing with section 11901) of Division 2 of the Revenue and Taxation Code of the state of California. (1369-12/67, 1925-8/74, Urg. Ord. 1993-6/75)

3.20.020 Tax imposed. There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the city of Huntington Beach shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100), a tax at the rate of twenty-seven and one-half cents (\$.275) for each five hundred dollars (\$500) or fractional part thereof. (1369-12/67, 1925-8/74, Urg. Ord. 1993-6/75)

3.20.030 Payment of tax. Any tax imposed pursuant to section 3.20.020 hereof shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax or for whose use or benefit the same is made, signed or issued. (1369-12/67, 1925-8/74, Urg. Ord. 1993-6/75)

3.20.040 Exceptions. The tax imposed by section 3.20.020 hereof shall not apply to:

- (a) Any instrument in writing given to secure a debt.
- (b) The United States or any agency or instrumentality thereof, or the District of Columbia for any tax imposed pursuant to this chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.
- (c) The making, delivering or filing of conveyance to make effective any plan of reorganization or adjustment:
 - (1) Confirmed under the Federal Bankruptcy Act, as amended;
 - (2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of section 205 of Title 11 of the United States Code, as amended;
 - (3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of section 506 of Title 11 of the United States Code, as amended; or
 - (4) Whereby a mere change in identity, form or place of organization is effected.

Subdivision (1) to (4) inclusive of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyance occurs within five (5) years from the date of such confirmation, approval or change.

- (d) The making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision 1083 of the Internal Revenue Code of 1954; but only if--
 - (1) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
 - (2) Such order specifies the property which is ordered to be conveyed;
 - (3) Such conveyance is made in obedience to such order. (1369-11/69, 1925-8/74, 1993-6/75)

3.20.050 Exception--Partnership. The following exception shall apply to partnerships:

- (a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this chapter by reason of any transfer of an interest in a partnership or otherwise, if--
 - (1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of section 708 of the Internal Revenue Code of 1954; and
 - (2) Such continuing partnership continues to hold the realty concerned.
- (b) If there is a termination of any partnership within the meaning of section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.
- (c) Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (1369-12/67, 1925-8/74, Urg. Ord. 1993-6/75)

3.20.060 Administration. The county recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (1369-12/67, 1925-8/74, Urg. Ord. 1993-6/75)